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10 Attorneys for Defendant
11 JPMORGAN CHASE BANK, N.A.

12
13 IN THE UNITED STATES DISTRICT COURT
14
15 THE NORTHERN DISTRICT OF CALIFORNIA
16
17 SAN FRANCISCO DIVISION

18 JASON CHAN LEE,

19 Plaintiff,

20 v.

21 JPMORGAN CHASE BANK, N.A., MTC
22 FINANCIAL, INC. dba TRUSTEE CORPS and
23 DOES 1-10.

24 Defendant(s).

25 Case No. 3:15-cv-05215-WHA

26 **DECLARATION OF MARY MCNEILL
27 IN SUPPORT OF JPMORGAN CHASE
28 BANK, N.A.'S MOTION FOR RULE 41(B)
DISMISSAL**

DAVIS WRIGHT TREMAINE LLP

1 I, Mary McNeill, declare:

2 1. I am an associate attorney in Davis Wright Tremaine, LLP's San Francisco office,
3 and I represent JPMorgan Chase Bank, N.A. ("Chase") in this matter. I have personal knowledge
4 of the matters set forth herein. If called as a witness to testify in this matter, I could competently
5 testify regarding the subject matter of this declaration.

6 2. I have attempted to contact Plaintiff Jason Chan Lee ("Plaintiff") unsuccessfully
7 via his counsel over ten times with no response from counsel. Plaintiff's counsel does not respond
8 to emails or phone telephone calls.

9 3. Plaintiff filed this lawsuit over one year ago on October 9, 2015 and has not
10 required Chase to respond to the Complaint to date. *See* Dkt. Nos. 15, 27, 33-35.

11 4. On January 28, 2016 at 10:45 a.m., I emailed Plaintiff's counsel in an attempt to
12 advance the case and did not receive a response.¹

13 5. On February 2, 2016 at 10:46 a.m., I emailed Plaintiff's counsel in an attempt to
14 advance the case and did not receive a response.

15 6. On February 8, 2016 at 1:26 p.m., I emailed Plaintiff's counsel in an attempt to
16 advance the case and did not receive a response.

17 7. On February 10, 2016 at 9:36 a.m., I emailed Plaintiff's counsel in an attempt to
18 advance the case and did not receive a response.

19 8. On February 15, 2016 at 2:30 p.m., I called Plaintiff's counsel and left a message
20 on his voicemail asking that he email me or return my phone call. I did not receive a response.

21 9. On February 17, 2016 at 10:18 a.m., I emailed Plaintiff's counsel in an attempt to
22 advance the case and did not receive a response.

23 10. On February 23, 2016 at 3:24 p.m., I emailed Plaintiff's counsel in an attempt to
24 advance the case and did not receive a response.

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27 ¹ In all such instances, I used email addresses for Plaintiff's counsel that they provided the Court's
28 e-filing system and phone numbers from the California State Bar's websites. My phone calls
yielded voicemail messages indicating I had reached Plaintiff's counsel.

1 11. On March 1, 2016 at 3:30 p.m., I called Plaintiff's counsel and reached him by
 2 phone. Plaintiff's counsel told me he was not able to get in contact with Mr. Lee and could not
 3 discuss the case with me as a result.

4 12. On March 7, 2016 at 10 a.m., I called Plaintiff's counsel and left a message on his
 5 voicemail asking that he email me or return my phone call. I did not receive a response.

6 13. On March 21, 2016 at 5:36 p.m., I emailed Plaintiff's counsel in an attempt to
 7 advance the case and did not receive a response.

8 14. On April 1, 2016, I sent a letter via U.S. Mail to Plaintiff's counsel² in an attempt
 9 to advance the litigation. The letter sent to Plaintiff's counsel included seven (7) exhibits that
 10 demonstrated Chase's efforts to advance the litigation. I did not receive a response to my April 1,
 11 2016 letter.

12 15. On May 24, 2016, I sent another letter via U.S. Mail to Plaintiff's counsel³ in an
 13 attempt to advance the litigation and stating Chase's intention to lift the stay Plaintiff requested
 14 (Dkt. No. 27) and noting that Chase agreed to the stay in good faith and believed Plaintiff was
 15 intentionally frustrating Plaintiff's stated purpose for the stay. I did not receive a response to my
 16 May 24, 2016 letter.

17 16. On June 17, 2016, the court-appointed receiver assigned to the case the FTC
 18 brought against Plaintiff's counsel filed a notice with the Court requesting a 90-day stay of the
 19 case to give Plaintiff "the opportunity to obtain new plaintiffs' counsel." Dkt. No. 33 at 1. The
 20 court-appointed receiver's authority over the instant litigation was solely "to permit any client of
 21 the Receivership entities to obtain replacement counsel." *Id.* at 2 (emphasis original).

22 17. The purpose of the receiver's stay request was to avoid any "prejudice" to Plaintiff
 23 by the receivership. In the nearly five months since June 17, 2016, Plaintiff has not obtained new
 24 counsel. *See* Dkt. Nos. 34-35.

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27 2 I also sent a copy of the letter to Plaintiff's counsel in an email as a PDF attachment.
 28 3 I also sent a copy of the letter to Plaintiff's counsel in an email as a PDF attachment.

1 18. The Court ordered Plaintiff to file a status report by September 26. Dkt. No. 34.
2 To date, Plaintiff has neither complied with the Court's order nor contacted Chase about the
3 Court's order.⁴

5 I declare under penalty of perjury under the laws of the United States and the State of
6 California that the foregoing is true and correct.

7 Executed on November 14, 2016, in San Francisco, California.

/s/ Mary McNeill
Mary McNeill

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⁴ The Court’s order (Dkt. No. 34) and the receiver’s notice (Dkt. No. 33) both made clear that Plaintiff’s counsel has been suspended from practicing law in California, and Plaintiff needs to find new counsel. See Dkt. Nos. 33-34. The Court did not order Plaintiff’s *former* counsel, whose law firm has been taken into receivership by the FTC, to file a status report—it ordered Plaintiff to file a status report. See Dkt. No. 34.